IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 10258 of 2004

Between:

Nisar Ahmed, S/o Late M.A. Hameed Saheb,
R/o 5-2-1040, Dada Miah Lane, M.J. Market, Hyderabad.

..... PETITIONER

AND

1 The Vice Chairman, A.P. Housing Board, Gagan Vihar, Hyderabad.
2 Executive Engineer, Central Division A.P. Housing Board, Gagan Vihar, M.J. Road, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ more particularly one in the nature of Mandamus declaring the impugned notice bearing No.4/MJR/Shops/E3/EE/C/2004 dated 14-5-2004 issued by the office of respondents as null and void, illegal, highly arbitrary against the principles of natural justice, hit by Article 21 of the Constitution of India and against the Rental Regulations, in the interest of justice, equity and fair play otherwise petitioner will suffer irretrievable loss and hardship.

For the Petitioner: MR.MIRZA NISAR AHMED BAIG, Advocate

For the Respondents.: MR.J.PRABHAKAR, SC for APHB

The Court at the admission stage made the following:

ORAL ORDER:

This writ petition is filed by the petitioner, who is a lessee of one of the shops bearing No. 4, which was leased out to the petitioner in the year 1976.

2. According to the petitioner, the lease was renewed from time to time and subsequently even without renewal also he was allowed to continue as lessee. Now, the Respondent Board has decided to dispose of the property by way of sale and therefore, sought to evict the petitioner. According to the petitioner, as against the decision of the Board for the sale of the property in question, the petitioner made a representation giving his offer to purchase the same. But, the respondents, without considering the same, have issued the impugned Notice, dated 14.5.2004, which was served on the petitioner on 20.5.2004, directing the petitioner to vacate the premises.

3. The learned counsel for the Petitioner also contended that in the absence of the renewal of the lease, the lease automatically gets renewed, as the petitioner was allowed by the respondent Board to continue as lessee by accepting the monthly rents paid by him. With reference to the right of the Board to take a decision to sell the property, the learned counsel for the Petitioner could not show any objection as to the right of the respondent Board but only sought that the petitioner's offer to be considered for the sale of the shop in his favour. But even with reference to the said contention also the learned counsel was not able to show any provision under which the existing lessee has got any right to purchase the property. According to the learned counsel for the Petitioner, the representation of the petitioner was not considered, and therefore, the impugned notice is sought to be suspended pending disposal of the main writ.

4. Heard the learned counsel for the petitioner and the learned Standing Counsel and considered the material on record.

5. A perusal of the notice dated 14.05.2004 shows that the Board has taken a policy decision not to renew the lease and to affect the sale of the shops by conducting public auction. When the

Board has taken such a decision, it is not open to the petitioner, who is a lessee, to claim either to sell in his favour or to renew the lease for a further period. The respondent Board in pursuance of its decision not to renew the lease issued notice dated 14.5.2004, directing the petitioner to vacate the premises within a period of one month from the date of receipt of the said notice and handover the possession to the Board by paying the arrears of rent. The petitioner/lessee cannot show any defect in the said notice issued by the Respondent Board under which the petitioner is sought to be evicted. It is always open to the respondent Board to take a policy decision and if it has decided to dispose of the shops, it is not open to the petitioner to object or obstruct the said process. However, if the Respondent Board puts the premises/shop for sale or lease by way of public auction, it is open to the petitioner to participate in the said auction and succeed if he is so interested.

6. The writ petition is accordingly dismissed.

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S. Ananda Reddy, J.

Dt. 22.06.2004
Kvh

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To
1 The Vice Chairman, A.P. Housing Board, Gagan Vihar, Hyderabad.
2 Executive Engineer, Central Division A.P. Housing Board, Gagan Vihar, M.J. Road, Hyderabad.

3. 2 CD copies_

THE HON'BLE MR. JUSTICE S. ANANDA REDDY

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W.P.NO. 10258 OF 2004

ORAL ORDER

22…06…2004